



OFFICE OF
INSURANCE COMMISSIONER

In The Matter Of

AMERICAN COMMERCE INSURANCE
COMPANY

Order No. D07-99

CONSENT ORDER

An Authorized Insurer,

To: American Commerce Insurance Company
3590 Twin Creeks Drive
Columbus, Ohio 43204

Comes Now the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and makes the following:

FINDINGS OF FACT

1. American Commerce Insurance Company ("American Commerce") is authorized to issue disability, property, casualty, vehicle, and marine and transportation insurance in Washington.
2. The Office of the Insurance Commissioner ("OIC") conducted a market conduct examination of American Commerce covering the time period between July 1, 2004 and June 30, 2005.
3. The market conduct examination of American Commerce was adopted by the Insurance Commissioner by Order Adopting Report of Market Conduct Examination, Order No. G06-60, entered October 25, 2006, which Order is final.
4. Seven (7) claims files either did not contain sufficient detail about the settlement offers made, or the log notes did not break the settlements into components to sufficiently determine whether the total losses were settled appropriately.
5. In nine (9) claims files, which included five of the same claims files referenced above, American Commerce failed to settle automobile claims in accordance with standards established by WAC 248-30-390 and WAC 284-30-3901-3916 for fair and equitable claims settlement. One of these claims files contained log notes stating that the Company would not provide the insured



the name of a shop or shops who could repair the insured's vehicle for the amount of the appraisal. The reason given was that it was the Company's policy not to do so, in violation of WAC 284-30-3903(3)(a). Two of these claims files contained market research lists provided by vendors that did not satisfy the requirements of WAC 284-30-3907 because the vehicles were not documented as being comparable to the insured's vehicle, or the vehicles were out of the local market area. Six of these claims files did not evidence that taxes and fees were paid as part of the total loss settlement. Refunds to six insureds totaled \$178.76.

Based upon the foregoing Findings of Fact, the Commissioner makes the following:

CONCLUSIONS OF LAW

1. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's license.
2. American Commerce committed the following violations of Washington law:
 - a. By maintaining claims files that did not contain all notes and work papers pertaining to the claim with sufficient detail so that pertinent events and the dates of such events could be reconstructed, American Commerce violated WAC 284-30-340.
 - b. By failing to settle automobile claims in accordance with standards established for fair and equitable claims settlement, American Commerce violated WC 284-30-390 and WAC 284-30-3901 through WAC 284-30-3916.

CONSENT TO ORDER

NOW, THEREFORE, American Commerce consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of American Commerce's payment of a fine and such other terms and conditions as are set forth below:

1. American Commerce consents to the entry of the foregoing Findings of Fact and Conclusions of Law and this Order and waives further administrative or judicial challenge to the OIC's actions related to the subject matter of the Order;
2. Within thirty days of the entry of this Order, American Commerce agrees to pay to the OIC a fine in the amount of \$5,000, of which \$5,000 is suspended on condition that American Commerce refrain from violating the subject provisions of the Washington State Insurance Code or Washington Administrative Code for two years from the date on which this Order is entered;
3. American Commerce will perform an internal audit of its total loss vehicle claims, covering the 90 days following the date this Order is entered, for compliance with applicable

statutes and regulations. American Commerce will provide a copy of the internal audit report to Christine Tribe of the OIC Legal Affairs Division within fifteen business days thereafter, unless granted an extension by Ms. Tribe for good cause shown.

4. The OIC will not impose this fine nor take action against the certificate of authority of American Commerce should it commit isolated, de minimis violations of the statutes or regulations that are the subject of this Order during the suspense period, as determined by the OIC. American Commerce commits to rectifying such violations promptly one they are discovered;

5. Whether further violations of the statutes and regulations are within the scope of this Order, and whether they are isolated or de minimis, will be determined at the sole discretion of the OIC. American Commerce understands and agrees that any future failure to comply with the statutes and regulations that are the subject of this Order constitutes grounds for further penalties that may be imposed in direct response to that further violation, in addition to the imposition of the suspended portion of the fine;

6. The suspended portion of this fine will be imposed at the sole discretion of the OIC according to the conditions set forth above, without any right to advance notice, hearing, or appeal. In that event, failure to pay the imposed fine constitutes grounds for revocation of American Commerce Insurance Company's certificate of authority.

EXECUTED this 9th day of April, 2007.

AMERICAN COMMERCE INSURANCE COMPANY

By: 

Printed Name: Raymond T. DeSantis

Typed Corporate Title: Vice President

ORDER OF THE INSURANCE COMMISSIONER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

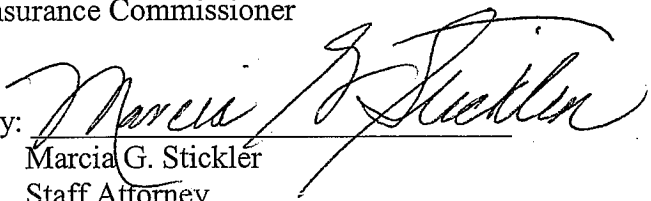
American Commerce is ordered to pay a fine in the amount of \$5,000, \$5,000 of which is suspended pending compliance with the statutes and regulations that are the subject of this Order for a period of two years. A copy of the internal audit report covering the 90-day period

following the entry of this Order as required above shall be provided to Christine Tribe of the OIC Legal Affairs Division fifteen business days thereafter, unless granted an extension by Ms. Tribe for good cause shown.

ENTERED AT TUMWATER, WASHINGTON, this 14th day of April, 2007.

MIKE KREIDLER,
Insurance Commissioner

By:


Marcia G. Stickler

Staff Attorney

Legal Affairs Division